case may be said to be consistent with the general trend of the law. The contract of conditional credit was changed when the bank honored the depositor's check. In the tender and acceptance of the check without provision for credit, the reasonable presumption would be that both parties considered this transaction as changing the ownership of the paper.

BOYCOTT—PHYSICIANS AND SURGEONS—RULES OF MEDICAL ASSOCIATION.—Defendant, British Medical Association, is an organization of medical men, its object, as stated in its memorandum of incorporation, being "To promote the medical and allied sciences, and to maintain the honor and interests of the medical profession." Plaintiff had been practicing medicine since 1895 and had been a member of the Association. In 1908 he was expelled from membership for having engaged in "contract practice", and thereupon the defendant put into operation, pursuant to its rules, a "prolonged, deliberate and pitiless boycott." This boycott or ostracism was so effective that throughout the whole period of its operation plaintiff was unable to secure the services in consultation of a single medical practitioner (with one exception) in his own community or the territory thereabouts. "His private practice was, in consequence, greatly injured, and he and the members of his family were treated as social and professional outcasts." In action for the resulting damage *held* plaintiff was entitled to recover. *Pratt* v. *British Medical Association* (1919), 1 K. B. 244.

The judgment of McCardie, J., is an able, thorough review of the authorities bearing on the problem of *Allen* v. *Flood* (1898), A. C. 1; *Quinn* v. *Leathem* (1901), A. C. 495, etc., and consideration of the principles underlying the determinations in such cases. The learned judge concludes that a threat to inflict upon a man the slur of professional dishonor was as much an "unlawful means" in injuring a person's business as is a threat to cause a strike, "each may produce intimidation." That the self interest of the defendant and its members and the alleged desire to set a particular standard of professional ethics were not a justification of what was done was deemed equally clear. The judgment concludes that malice was not an essential element in plaintiff's action, but finds that there was proof of malice. The case will be commented upon more fully in a subsequent issue of the Review.

CONSTITUTIONAL LAW—ANTI-TIPPING STATUTES.—Plaintiff was arrested for violation of the Iowa Code, Supplemental Supp. 1915, § 5028u, which provided that any employee of a hotel, barber-shop ,or other enumerated places (sic) who should accept a tip or gratuity should be guilty of a misdemeanor. The case arose on suit for a writ of habeas corpus. *Held,* the statute was unconstitutional. *Dunahoo* v. *Huber* (Iowa, 1919), 171 N. W. 123.

The court held that there was no reasonable ground whatever for distinction between employees and employers so far as concerned preclusion from accepting tips, and that, as the statute did not purport to restrict employers, it had not a "uniform operation" as required by the Iowa constitution, and did deny to employees that equal protection of the law prescribed by the federal constitution. A dissenting opinion argued that "the tipping

evil, if such, is in its very nature a wrong by the employee against the employer * * *" and that in this there was sufficient ground for classification. Other decisions on anti-tipping statutes are noted in 17 MICH. LAW REV. 96.

CRIMINAL LAW—MOTION IN ARREST—INDICTMENT—NAMES OF PARTIES.—Defendant, Goldberg, was indicted in fifty counts for the illegal sale of liquor. In forty-nine of the counts his name was spelled correctly, in one of them it was spelled Holdberg. He was convicted on all fifty counts, and moved in arrest of judgment. The motion was denied in the trial court. *Held,* reversed and remanded, the names not being *idem sonans,* the holding must be reversed *in toto. People* v. *Goldberg* (Ill., 1919), 122 N. E. 530.

The decision is one of those which grate on the legal conscience as well as add to the layman's arguments against the technicalities of legal procedure. To arrive at it the court took three steps. First: that Holdberg and Goldberg are not *idem sonans.* This is equivalent to saying that the attentive ear would have no difficulty in distinguishing between them when pronounced. *Maier* v. *Brock,* 222 Mo. 74. Second: that the objection was correctly raised by a motion in arrest of judgment. Other courts hold that this is too late to raise such an objection. See *Verberg* v. *State,* 137 Ala. 73, that a plea of not guilty is a waiver of the fact that the name is a misnomer; and *Commonwealth* v. *Dedham,* 16 Mass. 141, that misnomer is only matter of abatement, and not of arrest of judgment. Third: that the decision must be reversed *in toto.* The court goes on the authority of *People* v. *Gaul,* 233 Ill. 630. The United States Supreme Court seems to differ, holding that where there is error in one count the verdict may still stand as to the rest. *Ballew* v. *United States,* 160 U. S. 187.

CRIMINAL LAW—NEGLIGENT ASSAULT AND BATTERY WITH AN AUTOMOBILE.—Defendant was convicted of assault and battery. There was evidence tending to prove that he was driving an automobile in a closely built-up portion of a city at a speed of about thirty-five miles an hour and that, at a street crossing which he knew to be dangerous, he struck and injured the prosecutor who was riding a motorcycle. *Held,* the evidence was sufficient to support the conviction: affirmed on rehearing. *Bleiweiss* v. *State* (Sup. Ct. of Ind., 1918, 1919), 119 N. E. 375; 122 N. E. 577.

The court quotes *Luther* v. *State,* 177 Ind. 619, as follows: "Intent, on the part of the person charged, to apply the force constituting the battery, is an essential element of the offense. But the intent may be inferred from circumstances wihch legitimately permit it. It may be from intentional acts * * * done under circumstances showing a reckless disregard for the safety of others, and a willingness to inflict the injury." The case thus rests on the same theory as *State* v. *Schutte,* 87 N. J. L. 15 (Supreme Court), 88 Ib. 396 (Court of Errors), which was discussed at some length in 13 MICH. L. REV. 594. It seems obvious that, under the beneficent fiction of implied intent, we are developing a doctrine of negligent assault and battery, limited perhaps to the grosser degrees of negligence (as negligent homicide often is), and possibly excluding cases where there is no act save one of omission.